IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :30423 of 1997

Dated: 29th August 2007.

Between:

P.Bhagwanth Rao, S/o Narayana Rao, aged 58 years, R/o Garimellapalli Village, Chityala Mandal, Warangal District.

..... PETITIONER

AND

The Land Acquisition Officer-cum-Mandal Revenue Officer, Chityala Mandal, Warangal District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.NO.30423 OF 1997

ORAL ORDER:

None for the petitioner.

The writ petitioner is aggrieved by an order passed by the Mandal Revenue Officer on 3rd February 1997, rejecting his claim for re-determination of the amount of compensation payable to him under Section 28 of the Land Acquisition Act.

The facts to the extent relevant and material are that the land of an extent of Ac.6-22 guntas situated in Sy.No.32, 35, 36 and 37 of Garrimallapalli Village, Chityala Mandal, Warangal District, has been acquired for providing house sites to the Scheduled Caste and other weaker sections. The Land Acquisition Officer has passed Award on 23rd September 1986 determining the value of the land at Rs.7,000/- per acre. Some of the persons whose lands have also been acquired by the very same notification have solicited reference under Section 18 of the Act to the Sub Court for proper determination of the market value of their land so acquired. The reference has been registered as O.P.No.59 of 1987 on the file of the Principal Subordinate Judge Court at Warangal, which by an order dated 20th February

1996 had determined the value of the land to be Rs.13,000/- per acre. Based thereon, the writ petitioner herein submitted an application on 26th December 1996 requesting for re-determination of the compensation amount payable to him in terms of Section 28-A of the Act. Section 28-A of the Act, which is introduced by way of an amendment brought out by Act No.68/1984 reads as under:

> "**28-A.** Re-determination of the amount of compensation on the basis of the award of the court:- (1) Where in an award under this Part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification under Section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under Section 18, by written application to the Collector within three months from the date of the award of the court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court;
>
> Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section the

> day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.
> (2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.
> (3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court and the provisions of Sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under Section 18."

A perusal of Section 28-A of the Act makes it abundantly clear that while computing the period of three months specified in Sub Section 1 of Section 28-A of the Act, the time taken for obtaining a copy of the award shall be excluded. Further, the Collector is also required to conduct an enquiry after giving notice to all the persons interested of being heard and then make an Award determining the amount of compensation payable to the applicants.

In the instant case, the application of the writ petitioner for re-determination of the compensation amount submitted on 26th December 1996, has been rejected only on the ground that it is barred by limitation. Obviously, the Collector has not examined the issue from the correct stand point of view of law. He is required to call upon the petitioner to demonstrate as to how the application submitted by him on 26-12-1996 is well within time. Sometimes, only due to administrative delay, copies of the judgment rendered by the Court are furnished after certain amount of time elapsed. Therefore, the time taken by the office of the Court in furnishing a copy of the judgment should not be put against the interests of the litigating public and that is the philosophy behind excluding the time consumed for securing the copies from the Courts.

Therefore, the petitioner is required to establish before the Collector that as to when the copy of the judgment passed by the Principal Subordinate Judge's Court at Warangal in O.P.No.59 of 1987 was made available. The petitioner has enclosed one such copy, wherein though the Award was passed on 20th February 1996, an application seeking a copy thereof was only made for the first time on 14th March 1997. Entertaining such a copy application, the Court furnished certified copy to the applicant on 15th March

1997.

I am afraid, this is also not a correct approach on the part of the writ petitioner. He has to demonstrate before the Collector as to when he first made the application seeking copy of the Award passed in O.P.No.59 of 1987. The three months period has got to be reckoned with reference to the first copy made available by the Court. For instance, if a copy application is made today to the Principal Subordinate Judge's Court, Warangal, seeking certified copy of the Award passed in O.P.No.59 of 1987, the same will be entertained and copy will be furnished subsequently. Therefore, an application under Section 28-A of the Act can be entertained not with reference to the date on which the applicant seeks copy of the Award, but with reference to the first copy made available by the Court concerned. That is the purpose of the enquiry contemplated under Sub Section 2 of Section 28-A of the Act. Therefore, I *set aside* the order passed by the Mandal Revenue Officer, on 3rd February 1997 and remit the matter back for fresh consideration, directing the issue to be determined within a period of four months from today.

With these, the writ petition stands disposed of, but however, in the circumstances, without costs.

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Nooty Ramamohana Rao, J

mrk

29th August 2007.